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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,016	11/14/2003	Clifford L. Wolfe	211-01 US	8386

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EXAMINER	
GREENHUT, CHARLES N	
ART UNIT	**PAPER NUMBER**
3652	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/712,016	WOLFE, CLIFFORD L.	
	Examiner	Art Unit	
	Charles N. Greenhut	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 November 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11,15-17* is/are rejected.

7)☒ Claim(s) *12-14,18 and 19* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

I. Specification

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

II. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claim(s) 1-11, and 15-17 and is/are rejected under 35 U.S.C. 103(a) as being unpatentable over WOLFE (US 5,052,879 A) in view of MCFARLAND (US 4,573,854 A).

1.1. With respect to claim 1-3, 6, and 10-11, WOLFE discloses a horizontally movable load platform (7) supported by wheels (19) having a drive mechanism (15), a base (18), a lift support base (6), mechanically connected (via 9) to a right and left hydraulic lift actuator (5)/(Fig. 17 #10) and oriented substantially perpendicular to the lift support base (e.g., Fig. 8), gear mechanism (9)/(17) movably attached to the left and right lift actuators driven by an extension unit (25). WOLFE is silent as to whether the gear mechanism comprises a left and right gear mechanism movably attached to respective left and right hand sides of the base and the apparatus for

transferring a load through the rear of a vehicle. MCFARLAND teaches left and right gear mechanisms (36)/(38) movably attached to left and right hand sides of the base (18). It would have been obvious to one of ordinary skill in the art to modify WOLFE with the left and right gear mechanism attachment points of MCFARLAND in order to stably pivot the platform into a storage position. MCFARLAND additionally teaches loading through the rear of the vehicle. It would have been obvious to one of ordinary skill in the art to modify WOLFE with the loading location of MCFARLAND in order accommodate vehicles more suited to rear loading.

1.2. With respect to claim 4-5, WOLFE additionally discloses a toothed gear drive (Fig. 13) driven by an electric motor (8), however WOLFE fails to disclose the toothed gear drive for providing the translational movement of the extension unit. WOLFE teaches the translational movement provided by a piston (14). It would have been obvious to one of ordinary skill in the art to modify WOLFE with the motor driven toothed gear drive providing the translational movement of the extension unit because a piston and a motor driven toothed gear drive are known in the art as equivalent and interchangeable actuation means.

1.3. With respect to claims 7-9, WOLFE additionally discloses the drive mechanism comprising a friction and chain drive (15) interacting with a toothed gear (20)/(44) driven by an electric motor (8) powered by a vehicle battery (Fig. 18 #1).

1.4. With respect to claims 15-17, WOLFE discloses a lift support base (6) supporting a load platform (7), mechanically connected (via 9) to a right and left lift actuator (5) movably attached to a base (18) mounted inside a vehicle to a floor (21), and oriented

substantially perpendicular to the lift support base (e.g., Fig. 8), gear mechanism (9)/(17) movably attached to the left and right lift actuators and to an extension unit (25) which is moved from partially outside the vehicle (Fig. 5) to within the vehicle (Fig. 1), disposing a load on the platform and using the lift actuators to move substantially straight in a substantially vertical direction (Fig. 11 to 10) to a position suitable for moving substantially straight in a substantially horizontal direction the load platform in to the vehicle (Fig. 9), moving substantially straight in a substantially horizontal direction the load platform through a door opening (Figs. 4-3) in to the vehicle (Fig. 9) using the gear mechanism (9)/(17), translationally and rotationally (Figs. 7-6) moving the lift support base through the door opening (Figs. 2-1) to a position inside the vehicle (Fig. 1) where the lift support base (6) is oriented in proximity to the door and substantially vertical (Fig. 1). WOLFE is silent as to whether the gear mechanism comprises a left and right gear mechanism movably attached to respective left and right hand sides of the base and the apparatus for transferring a load through the rear of a vehicle. MCFARLAND teaches left and right gear mechanisms (36)/(38) movably attached to left and right hand sides of the base (18). It would have been obvious to one of ordinary skill in the art to modify WOLFE with the left and right gear mechanism attachment points of MCFARLAND in order to stably pivot the platform into a storage position. MCFARLAND additionally teaches loading through the rear of the vehicle. It would have been obvious to one of ordinary skill in the art to modify WOLFE with the loading location of MCFARLAND in order accommodate vehicles more suited to rear loading.

III. Allowable Subject Matter

1. Claim 12-14 and 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

1.1. With respect to claims 18-19, the following is a statement of reasons for the indication of allowable subject matter:

1.1(a) While the WOLFE and MACFARLAND teach the method of moving a load by using an platform and employing horizontal and translational motion via a linkage to dispose both the platform and a lift support base vertically within a vehicle, a method for transferring a load through a rear door of a vehicle, as described in the language of claims 15 and 16, that further includes the unique feature of a an extension unit moved from outside the vehicle to within the vehicle, the load platform being moved onto that extension unit, as detailed in the language of claims 17 and 18 is not taught or fairly suggested by the prior art.

1.2. With respect to claims 12-14 the following is a statement of reasons for the indication of allowable subject matter:

1.2(a) While the WOLFE and MACFARLAND teach apparatus moving a load platform into a vehicle, an inside vehicle lift for transferring a load through a rear door opening of a vehicle, as described in the language of claims 1-3, that further includes the unique feature of a gear mechanism comprising the linkage arrangement described in the language of claim 12, is not taught or fairly suggested by the prior art.

IV. Response to Applicant's Arguments

Applicant's arguments filed 5/9/06 have been fully considered.

1. Applicant argues that claim 1 cannot be rendered obvious by WOLFE in view of MCFARLAND because firstly, the mechanisms employed in WOLFE and MCFARLAND would not be capable of withstanding the forces generated by the combination of those references and secondly, because the combination would require substantial modifications to the vehicle. This argument is not persuasive. Applicant's argument and supporting affidavit are focused solely on the inability of a skilled artisan to combine the specific structures disclosed in WOLFE and MCFARLAND. The Examiner acknowledges the design challenges that Applicant points out, however, the test for obviousness is not whether the features of the secondary reference MCFARLAND may be bodily incorporated into the structure of the primary reference WOLFE, the test is what the combined teachings of WOLFE and MCFARLAND would have suggested to those of ordinary skill in the art. It is not necessary that the inventions of WOLFE and MCFARLAND be physically combinable to render obvious the invention under review. For example, Applicant asserts the hydraulic cylinders taught by WOLFE would not withstand the torque that would be generated by moving the system to the rear of the vehicle and thereby requiring additional stroke length. One of ordinary skill in the art would recognize that the disclosed hydraulic cylinder is one specific type of linear actuator, and as Applicant points out, a type that is not intended to withstand a significant amount of torque. If an increased torque were applied to the actuator it would be obvious to one having ordinary skill in the art to, for example, employ a linear actuator capable of withstanding such torque, e.g. a hydraulic cylinder coupled with a linear

guide. MCFARLAND is cited simply to demonstrate that it is known that lifts of this type may be positioned on the rear of a vehicle. The specific structure used by MCFARLAND to achieve this is not required to meet the limitations of claim 1 either. The fact that MCFARLAND would suggest to one of ordinary skill in the art that WOLFE may be modified for placement on the rear of a vehicle combined with the fact that one having ordinary skill in the art would expect that some components may need to be substituted in order to withstand increased loads is sufficient to render claim 1 obvious. Combining the teachings of WOLFE and MCFARLAND does not require the ability to combine their specific structures.

2. Applicant argues that claim 3, as amended, is not rendered obvious over WOLFE in view of MCFARLAND because WOLFE fails to teach the left hand side and right hand side gear mechanism driven by the extension unit. This argument is not persuasive. As noted above, WOLFE discloses a gear mechanism (9/17) but is silent as to whether the gear mechanism comprises a left and right gear mechanism. Having a left and right hand side gear mechanism to create a couple is a well-known practice and is demonstrated by MCFARLAND. The gear mechanism (9/17) is driven by extension unit (25). The Examiner acknowledges the differences between the extension unit described in Applicant's preferred embodiment and that cited in WOLFE however, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. These limitations are met by WOLFE within the broadest reasonable interpretation of those terms.

V. Conclusion

1. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

2. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.

4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached at (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access

to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG

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